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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of the)	File No. SLD -
Appeal of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Holgate School District)	CC Docket No. 02-6
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. 96 - 45
)	
Changes to the Board of Directors of)	
)	
The National Exchange Carrier)	CC Docket No. 97 - 21
)	
Association, Inc.)	

Appeal
Demand for Expedited Relief

October 16, 2005

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W. Suite TW-A325
Washington, D.C. 20554

This is an appeal and request for expedited relief from a decision by the Schools and Libraries Division of the USAC to the Federal Communications Commission.

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed; please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope.

No. of Copies rec'd 054
List A B C D E

(1) Funding Commitment Decision Letter Appealed

Form 471 Application Number: 484696
Funding Year 2005: 07/01/2005-06/30/2006
Billed Entity Number: 129278
Date of Funding Denial Notice: September 21, 2005
Date of Appeal: October 16, 2005

(2) SLD Contact Information

Currie A. Sutton
Holgate School District
(216) 682.0169
27600 Chagrin Blvd., Suite 260
Cleveland Ohio 44122

(3) Funding Request Numbers Appealed

FRNs – 1343388, 1343425, 1343483, 1343529

(4) Reason for Appeal:

- a. On FRNs 1343388, 1343425, 1343483 and 1343529 the SLD reduced Applicant's discount from 64% to 55%.
- b. On FRN 1343425 the SLD not only reduced Applicant's discount from 64% to 55%, but denied the Application stating that "This FRN is a request for a Telecommunications Service from a carrier that does not provide telecommunications on a common carriage basis."

(5) First, There is no Federal Communications Requirement that "wireless service"

be provided by a telecommunications carrier on a common carriage basis.

<http://wireless.fcc.gov/services/>, and

<http://www.sl.universalservice.org/reference/eligible.asp>

(6) Second, the SLD was provided very precise data to support Applicants' request

for accepting the Application. Further, the FCC dealt with this kind of situation in

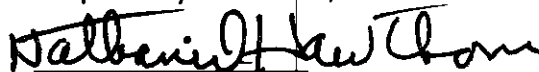
CC Docket No. 02-6, CC Docket No. 02-6, File No. SLD-338605, Fayette County School District (Fayette), Exhibit A. There, the FCC held that the school district submitted documents in support of its funding Application. To the extent that the Application was deficient, the "SLD failed to specify what additional information was required." *Fayette, para 4 Here*, the SLD denied adjusted the discount rate, but no PIA was submitted or other questions were asked.

Conclusion:

Holgate is requesting the following action by the FCC:

- a. Order the SLD to process Holgate's 471 Application at the discount percentage stated in the Application.
- b. Reverse the SLD, and allow FRN 1343425.

Respectfully submitted,



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Cc: Holgate

Exhibit A

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Request for Review of the Decision of the
Universal Service Administrator by

Fayette County School District
Fayetteville, West Virginia

Schools and Libraries Universal Service
Support Mechanism

File No. SLD-338605

CC Docket No. 02-6

ORDER

Adopted: July 26, 2005

Released: July 27, 2005

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by the Fayette County School District, Fayetteville, West Virginia (Fayette), seeking review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Consistent with precedent, we grant this Request for Review and remand it to SLD for processing in accordance with this Order.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.² The Commission vested in SLD the responsibility for administering the application process for the universal service support mechanism.³ Accordingly, SLD reviews the applications for discounts that it receives, and issues funding commitments in accordance with the Commission's rules. Under the schools and libraries universal service support

¹ *Request for Review of Decision of the Universal Service Administrator by the Fayette County School District*, CC Docket Nos. 96-45 and 97-21, filed October 7, 2003 (Request for Review). Any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

² 47 C.F.R. §§ 54.502, 54.503.

³ 47 C.F.R. § 54.705(a)(1). The Schools and Libraries Committee oversees the administration of the schools and libraries support mechanism. *Id.* See also *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal State Joint Board on Universal Service*, Third Report and Order and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058, 25075-76, paras. 30-31 and 34 (1998) (*Eighth Reconsideration Order*) (describing the functions of the Schools and Libraries Committee). Under the rules adopted in the Commission's *Eighth Reconsideration Order*, the Schools and Libraries Committee's functions include, but are not limited to, "development of applications and associated instructions," and "administration of the application process, including activities to ensure compliance with Federal Communications Commission rules and regulations."

mechanism, applicants may only seek support for eligible services.⁴ Applicants are required to provide information that establishes that their requested services are eligible for discounts.⁵ Pursuant to the Administrator's operating procedures, SLD performs a Program Integrity Assurance (PIA) review to verify information contained in each application.⁶ During this process, SLD may ask for additional documentation to support the statements made on the application.

3. The SLD decision at issue in the Request for Review involves the denial of funding on the grounds that Fayette failed to provide sufficient documentation for SLD to determine the eligibility of the services requested.⁷ Specifically, in its Funding Year 2003 application [Funding Request Number (FRN) 968291], Fayette applied for funding in the amount of \$67,400.00 for monthly local telephone service.⁸ During PIA review, SLD contacted Fayette two times, on July 3, 2003 and July 16, 2003, seeking more detailed documentation to support Fayette's funding request.⁹ In its request, SLD stated that the documentation provided with Fayette's application was not sufficient to describe the products and services sought, thus it could not determine the eligibility of Fayette's request.¹⁰ SLD instructed Fayette to provide documentation such as a portion of the bills that identified the actual products and services being delivered for the requested one time installation charges and monthly recurring charges.¹¹ SLD also instructed Fayette that, if the bill it received from its vendor did not provide such information, Fayette should contact its vendor for the necessary documentation.¹² Fayette responded to SLD's July 3rd Letter

⁴See 47 C.F.R. § 54.504; Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806, at 17 (October 2000) (FCC Form 471 Instructions) (stating that applicants may not seek support for ineligible services, entities and uses). See also *Request for Review by Chelmsford Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-121771, CC Dockets No. 96-45 and 97-21, Order, 17 FCC Rcd 761, 762, para. 3 (Com. Car. Bur. 2002).

⁵See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9216, para. 41 (2003) (stating that applicants bear the burden of ensuring that the items requested are eligible for support under the program rules).

⁶The PIA review process examines applicants' FCC Forms 471 and other documentation to ensure that the discounts recipients seek are for eligible services, provided to eligible entities, and for eligible uses. See SLD website, Program Integrity Assurance (PIA), <<http://www.sl.universalservice.org/reference/6pia.asp>>.

⁷Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Linda Alexander, Fayette County School District, dated September 9, 2003, at 5 (Funding Commitment Decision Letter).

⁸See FCC Form 471, Fayette County School District, filed January 27, 2003, at Item 21 Attachment (Fayette FCC Form 471).

⁹Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Linda Alexander, Fayette County School District, dated July 3, 2003 (July 3rd Letter); Letter from the Schools and Libraries Division, Universal Service Administrative Company, to Linda Alexander, Fayette County School District, dated July 16, 2003 (July 16th Letter).

¹⁰See July 3rd Letter. See also July 16th Letter. The July 16th Letter also states that the documentation Fayette provided does not sufficiently describe the products and services being requested and is not sufficient for SLD to determine the eligibility of Fayette's request. *Id.* The letter requests more detailed documentation such as the portion of the bill that identifies the actual products and services being delivered for the monthly recurring charges. *Id.*

¹¹See July 3rd Letter.

¹²*Id.* See also July 16th Letter.

on July 10, 2003, submitting its bills for local telephone service and documentation from its vendor that described Fayette's requested non-recurring charges.¹³ Fayette responded to SLD's July 16th Letter on July 23, 2003, providing additional bills for local telephone service from Fayette's vendor.¹⁴ On September 9, 2003, SLD denied Fayette's funding request, stating that Fayette had not provided sufficient documentation for SLD to determine the eligibility of the services requested.¹⁵ Fayette subsequently filed the instant Request for Review, arguing that it had provided all documentation requested by SLD during PIA review, and that no additional data was requested by SLD.¹⁶

4. Upon review of the record, we find that SLD improperly denied Fayette's funding request. We find that Fayette provided the documentation requested by SLD. Specifically, Fayette submitted copies of invoices for the local telephone service for which it requested funding, and a letter from its vendor that provided a breakdown of the non-recurring costs that were part of Fayette's funding request.¹⁷ These submissions appear to satisfy SLD's request for bills that identified the actual products and services being delivered for the one time installation charge and monthly recurring charges.¹⁸ To the extent that Fayette's response was not sufficient to demonstrate eligibility, SLD failed to specify what additional information was required.¹⁹ We therefore remand this Request for Review to SLD and direct SLD to process the application consistent with this Order. We instruct SLD to provide Fayette with a detailed inquiry of the documents and information necessary for SLD to determine the eligibility of Fayette's request for funding. In remanding this matter to SLD, we make no findings as to the ultimate eligibility of the requested services.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Fayette County School District, Fayetteville, West Virginia, on October 7, 2003, IS

¹³Facsimile from Linda Alexander, Fayette County School District, to Robin Greator, Schools and Libraries Division, dated July 10, 2003.

¹⁴Facsimile from Linda Alexander, Fayette County School District, to Robin Greator, Schools and Libraries Division, dated July 23, 2003.

¹⁵See Funding Commitment Decision Letter at 5.

¹⁶Request for Review at 2-3.

¹⁷Facsimile from Linda Alexander, Fayette County School District, to Robin Greator, Schools and Libraries Division, dated July 10, 2003; Facsimile from Linda Alexander, Fayette County School District, to Robin Greator, Schools and Libraries Division, dated July 23, 2003.

¹⁸See July 3rd Letter; July 16th Letter.

¹⁹See *Request for Review of St. Stanislaus Kostka Grade School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-142493, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 3361, 3362, para. 3 (Com. Car. Bur. 2001) (finding that SLD failed to specify what additional information was required for an application for discounts).

GRANTED, to the extent described herein, and REMANDED to SLD for further action consistent with this Order.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau